

ARKANSAS SUPREME COURT

No. CR 09-336

WILLIE G. DAVIS, JR.
Petitioner

v.

HON. SAMUEL POPE, CIRCUIT JUDGE
Respondent

Opinion Delivered May 21, 2009

PRO SE MOTION FOR RULE ON
CLERK TO FILE PETITION FOR WRIT
OF MANDAMUS WITHOUT
CERTIFIED RECORD [CIRCUIT
COURT OF DESHA COUNTY, CR 95-
110]

MOTION DENIED.

PER CURIAM

On April 1, 2009, petitioner Willie G. Davis, Jr., filed the instant motion for rule on clerk in which he seeks leave of this court to file a pro se petition for writ of mandamus in this court without a certified record. Petitioner previously tendered the mandamus petition to this court on December 30, 2008.

The genesis of this action appears to be a pro se petition for writ of habeas corpus pursuant to Act 1780 of 2001 that petitioner filed in the trial court in 2008. Therein, he sought scientific testing of his blood.¹

Petitioner complains here that the clerk of the Desha County Circuit Court has refused to send petitioner file-marked copies of documents filed in the matter, although he provided self-addressed, stamped envelopes with each pleading for that very purpose. Petitioner contends that the

¹Act 1780 of 2001, as amended by Act 2250 of 2005, and codified as Arkansas Code Annotated §§16-112-201–208 (Repl. 2006), provides that a writ of habeas corpus can issue based upon new scientific evidence proving a person actually innocent of the offense or offenses for which he or she was convicted.

clerk has also refused to provide the certified record to petitioner unless a self-addressed, stamped envelope is supplied to the clerk. However, petitioner maintains, he has previously enclosed such envelopes with each pleading mailed to the clerk that were not used per his original request, i.e., to send file-marked copies of the pleadings to petitioner. In the instant motion, petitioner asks this court to direct the clerk to file all documents in the underlying Act 1780 matter, to mail file-marked copies of all the documents to petitioner and to transmit the certified record to this court so that petitioner may be allowed to proceed with the antecedent petition for writ of mandamus.

The responsibility to transmit the certified record to this court rests with an appellant as the person seeking the appeal. Ark. R. App. P.–Civ. 7(b). Moreover, it is not the responsibility of the circuit clerk, circuit court or anyone other than a petitioner to perfect an appeal, even if the petitioner is proceeding pro se and found to be an indigent for appeal purposes. *Sullivan v. State*, 301 Ark. 352, 784 S.W.2d 155 (1990) (per curiam).

Petitioner has stated no basis to proceed in this court without a certified record where one is clearly required. Without a certified record, this court has no authority to act.

Further, by asking this court to direct the circuit court clerk to take particular actions, the actual relief sought by petitioner is in the form of a writ of mandamus directed toward the clerk. That is not the function of a motion for rule on clerk filed in this court. Ark. Sup. Ct. R. 2-2(b).

Motion denied.